IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

FRIDAY, THE 3RD AUGUST 2007 / 12TH SRAVANA 1929

WP(C).No. 19921 of 2007(V)

OA.326/2002 of DEBT RECOVERY TRIBUNAL, ERNAKULAM

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PETITIONER:

M.A.K.AZAD, MANAGING DIRECTOR,
M.A.K. AGRO COMMODITIES TRADING COMPANY (P) LTD,
G-211, MAIN AVENUE, PANAMPILLY NAGAR,
COCHIN - 682 036.

BY ADV. SRI.K.RAMAKUMAR
SRI.T.RAMPRASAD UNNI

RESPONDENTS:

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1. DHANALAKSHMI BANK,
SHANMUGHAM ROAD BRANCH, COCHIN - 682 036.

2. THE DEBT RECOVERY APPELLATE TRIBUNAL,
CHENNAI.

BY ADV. SHRI C.E. UNNIKRISHNAN, SC.
SRI.P.PARAMESWARAN NAIR,ASST.SOLICITOR

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 03/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K. M. JOSEPH, J.

W.P.C. NO. 19921 OF 2007 V

Dated this the 3rd August, 2007

JUDGMENT

Petitioner challenges Exts.P1, P2 and P3. By Ext.P1 Order, the Recovery Officer rejected the application of the petitioner to conduct private sale of the property and to grant six months period for the said purpose. Even though petitioner carried the matter in Appeal to the Debt Recovery Tribunal, that came to be rejected by Ext.P2. Petitioner challenged the said order before the Debt Recovery Appellate Tribunal. Ext.P3 is the order passed. It is extracted hereunder:

> *"After hearing both the parties, the Appellant voluntarily has come forward, praying that, time may be granted upto 9.7.2007, to bring the property by way of private sale, failing which, the Recovery Officer, DRT, Ernakulam, is at liberty to proceed further, for realising the amount. The Appellant also made an endorsement to that effect in the Memorandum of Appeal, and duly counter*

signed by the Advocate on record. The statement and the endorsement made by the Appellant are taken on record. Time is granted upto 9.7.2007 for the Appellant, to bring the property by way of private sale, and for realisation of the amount, and to pay the same to the Respondent Bank, failing which the Recovery Officer, DRT, Ernakulam, is at liberty to proceed further, for realising the amount."

2. According to petitioner, the property admeasures four acres and nine cents and is located in a prime location. According to him, the time granted is wholly irrational. This Court by an interim order dated 9.7.2007 directed that if the petitioner pays Rs.15 Lakhs within two weeks from 9.7.2007, the time granted will stand extended by one month. It is common case that the petitioner has not deposited Rs.15 Lakhs. Learned counsel for the respondent Bank points out that a perusal of Ext.P3 order makes it very clear that it is a consent order. I find, on a perusal of the order that the statement in Ext.P3 order is that the petitioner has voluntarily come forward

praying for time till 9.7.2007 for arranging private sale. I do not find any illegality in the order. But, having regard to the facts, though I do not find any ground to interfere with Exts.P1 to P3, I direct that the proceedings for sale of the property under the Act shall be kept in abeyance for a period of two weeks from today.

Subject to the above, the Writ Petition is dismissed.

K. M. JOSEPH, JUDGE

kbk.